

**MASTER POWER PURCHASE AND SALE AGREEMENT
SECOND AMENDED AND RESTATED CONFIRMATION LETTER**

This Second Amended and Restated Confirmation Letter, dated April 6, 2005 ("Second Amended and Restated Confirmation"), shall, upon the Amendment Effective Date, amend and restate the Transaction agreed to on April 22, 2002 and effective May 1, 2002, as amended by the Amendment dated October 23, 2003 (the "2003 Amendment") and the Letter Amendment dated October 29, 2003 (the "2003 Letter Amendment") as amended by the Modification Letter dated March 30, 2005 (the "2005 Modification Letter"), between Calpine Energy Services, L.P. ("Party A") and State of California Department of Water Resources with respect to its responsibilities pursuant to California Water Code Section 80000 *et seq.* regarding the Department of Water Resources Electric Power Fund separate and apart from its powers and responsibilities with respect to the State Water Resources Development System ("Party B") regarding the sale/purchase of the Product under the terms and conditions as follows:

Seller: Calpine Energy Services, L.P.

Buyer: State of California Department of Water Resources

Amendment Effective Date: This Second Amended and Restated Confirmation shall automatically become effective at 12:01 a.m. Pacific Prevailing Time on the first day that CAISO commences dispatching energy and settling energy transactions on the CAISO controlled grid pursuant to an LMP System; provided that the conditions and obligations of Sections 3.1 and 3.3 of the Settlement Agreement dated April 6, 2005 between Buyer, Seller, Power Contract Financing, L.L.C. and Gilroy Energy Center, LLC have been satisfied or waived in writing by Buyer and Seller. Buyer and Seller acknowledge and agree that until the Amendment Effective Date this Second Amended and Restated Confirmation shall be of no force or effect, including without limitation with respect to the interpretation of the Master Agreement for any purpose whatsoever by Seller, Buyer or any other person.

Supercession: Upon the Amendment Effective Date, this Second Amended and Restated Confirmation shall supercede the Amended and Restated Confirmation Letter dated April 22, 2002 and effective May 1, 2002, as amended by the 2003 Amendment and the 2003 Letter Amendment (as amended, for purposes of this paragraph the "Original Confirmation Letter"), and the Original Confirmation Letter shall be of no further force or effect; provided, however, that in the event of a dispute between Buyer and Seller with respect to any issue that arises out of or is related to performance of the Original Confirmation Letter, the terms and conditions of the Original Confirmation Letter shall govern.

The 2003 and 2005 Amendments: Buyer and Seller acknowledge that the 2003 Amendment, the 2003 Letter Amendment and the 2005 Modification Letter (collectively, the "2003 and 2005 Amendments") have for ease of reference been incorporated into this Second Amended and Restated Confirmation. Buyer and Seller further acknowledge and agree that the provisions of the 2003 and 2005 Amendments as incorporated herein remain substantively unchanged from their original executed form, and that the incorporation of the 2003 and 2005 Amendments in this Second Amended and Restated Confirmation is not intended to modify any of the deadlines

contained in the 2003 and 2005 Amendments or provide any guidance with respect to whether any of the milestones included in the 2003 and 2005 Amendments have been met. Neither Buyer nor Seller has waived any claim or right concerning issues related to the 2003 and 2005 Amendments.

Product:

☐ Into _____, Seller's Daily Choice

☐ Firm (No Force Majeure)

☐ System Firm

(Specify System: _____)

☐ Unit Firm

(Specify Unit(s): See "Special Conditions" below.)

☒ Other

Product 1: Firm (LD) at 100% load factor, 24 hours per day, 7 days per week, subject to "Special Conditions" below. If delivered subject to and scheduled in accordance with "Special Conditions", including without limitation Special Conditions 6(a) and 6(b) below, Party B must take and pay for energy.

☐ FT-Contract Path Contingency ☐ Seller ☐ Buyer

☐ FT-Delivery Point Contingency ☐ Seller ☐ Buyer

☐ Transmission Contingent ☐ Seller ☐ Buyer

☐ Other transmission contingency

(Specify: _____)

Contract Quantity:

Product 1:

July 1, 2002 - December 31, 2009: 1000 MW

(Above Contract Quantities are subject to "Special Conditions" below.)

Definitions:

In addition to any terms defined elsewhere herein, the following terms shall have the meanings set forth below. The use herein of the singular shall include the plural and vice versa.

"Geographic Boundaries" means the geographic boundaries of North Path 15 of the CAISO congestion management zone as of April 6, 2005.

"Inter-SC Trades" means scheduling coordinator to scheduling coordinator trades of energy within the CAISO system that are settled pursuant to applicable CAISO rules, protocols or tariffs.

"LMP" or "LMP System" means a transmission congestion management system that uses security-constrained unit commitment and dispatch to assign prices to energy at Nodes on the transmission system based upon balanced resources and loads.

"Nodes" means the LMP nodes, as may be modified by CAISO from time to time, assigned by CAISO to physical locations on the transmission grid controlled by CAISO within the Geographic Boundaries; provided, however, that Nodes shall not include the Trading Hubs.

"NP-15 EZ Gen Hub" means the trading hub that CAISO establishes as part of the implementation of LMP based on the CAISO NP-15 congestion management zone and not any individual Node.

"Pacific Prevailing Time" means Pacific Daylight Savings Time when such time is applicable in California and otherwise shall mean Pacific Standard Time. All references to a time certain will be deemed to be a reference to Pacific Standard Time or Pacific Daylight Savings Time, as then prevailing.

"Physical Validation Rule" means the market rule that imposes a physical trade validation requirement on all Inter-SC Trades at Nodes as identified, described and defined in the CAISO's March 15, 2005 filing with FERC pursuant to Section 205 of the FPA in Docket No. ER02-1656-025.

"TAPAS" means Transitional Alternative Pricing and Settlement as generally described in the CAISO's October 13, 2004, white paper entitled "Transitional Alternative Pricing and Settlement (TAPAS) Approach to Locational Marginal Pricing (LMP)," and as may be further as defined in CAISO rules, protocols or tariffs.

"Tracy Intertie Point" means the transmission interchange at the Tracy Substation in amounts not to exceed 525 MW.

"Trading Hubs" means (1) the NP-15 EZ Gen Hub and (2) the load aggregation zone that CAISO establishes as part of the implementation of LMP based on the service territory for Pacific Gas & Electric and not any individual Node.

Delivery Point:

Delivery Point means the Nodes, the Tracy Intertie Point and the Trading Hubs; provided, however, that deliveries to the Tracy Intertie Point shall not exceed 525 MWs. Seller may schedule one or more different Delivery Points on an hourly basis pursuant to CAISO protocols (or any successor protocols).

Contract Price:

Energy Price:

Product 1: \$59.60 per MWh

Other Charges:

Product 1: N/A

Delivery Period:

Product 1: May 1, 2002 - December 31, 2009

Special Conditions: (1) See Cover Sheet to Master Agreement.

(2) Seller, for each Project (as defined in Special Condition (4) below), shall provide monthly reports to Buyer not later than the 15th day of the following month in a form and level of detail satisfactory to Buyer which set forth the status of pre-construction activities (including permitting, licensing, financing, equipment acquisition and similar pre-construction activities), construction activities (including the construction milestones listed in Schedule 1B), progress toward compliance with any milestone dates established in the California Energy Commission ("CEC") or other applicable siting permit and this Confirmation, and the then expected commercial operation dates. Such reports shall include the status of accomplishing major development and construction milestones including obtaining all permits, securing project financing, acquisition and installation of major equipment, and start-up testing. Buyer may inspect any Project construction site or any non-confidential on-site Seller data and information pertaining to the Projects reasonably necessary to verify the information provided pursuant to the first sentence of this Special Condition (2) during business hours without notice, accompanied by any representative of the Project made immediately available at the site, it being understood that Seller may not delay any inspection by failing to make a representative available, and subject to compliance with safety procedures adopted for the site. Subject to compliance with safety procedures adopted for the site, from commencement of construction through commercial operation of the Project, Buyer shall be entitled to establish an on-going physical presence at all Project sites, including a dedicated work space, a parking space therefore and access thereto, in order to facilitate its monitoring rights. Such office and parking space shall be provided to Buyer at no cost to Buyer, but all other costs and expenses incurred by Buyer in connection with the exercise by Buyer of its monitoring rights shall be for Buyer's account. Seller will not materially decrease the nameplate capacity below that which is referenced in the applicable permit or change the design of the units in a manner that materially impairs Seller's obligations or materially alters Buyer's rights

or obligations hereunder without the written approval of Buyer, not to be unreasonably withheld.

(3)(a) If for any day the On-Peak Market Heat Rate and/or the Off-Peak Market Heat Rate is projected (on a day ahead basis) to be greater than 7,000Btu/kWh, the Seller shall, for the applicable on peak hours and/or the applicable off peak hours, as the case may be, deliver the then applicable amount of Contract Quantity energy for such day from its Western Generation Assets into the California markets subject to Forced Outages that reduce the available Western Generation Assets below, or Force Majeure events that would prevent Seller from making available, 1000 MW; provided, however, nothing herein shall relieve the Seller of the obligation to provide Contract Quantity energy to the Buyer pursuant to this Transaction to the extent required by the definition of Product 1. If for any day the On-Peak Market Heat Rate or the Off-Peak Market Heat Rate is projected (on a day ahead basis) to be equal to or less than 7,000Btu/kWh, the Seller may deliver the then applicable Contract Quantity energy for the applicable on peak hours and/or the applicable off peak hours, as the case may be, for such day from any source, including its Western Generation Assets and market purchases, subject to excuse for Force Majeure events; provided, however, nothing herein shall relieve the Seller of the obligation to provide Contract Quantity energy to the Buyer pursuant to this Transaction to the extent required by the definition of Product 1. For the purpose of paragraph (a) of this Special Condition 3, the following definitions shall apply:

"Daily Gas Index" = Price equal to the daily Midpoint price for PG&E Citygate for the applicable Flow Date as published in Platt's Gas Daily or successor publication mutually satisfactory to Buyer and Seller, plus all applicable PG&E local distribution company gas distribution charges in accordance with PG&E's tariff, plus all applicable PG&E tariff surcharges, if any.

"On-peak hours" are the hours from the hour ending 0700 through the hour ending 2200, Monday through Saturday (except for official NERC holidays).

"Off-peak hours" are all hours on Sunday and any other day that is a NERC holiday and the hours from the hour ending 0100 through the hour ending 0600, and from the hour ending 2300 through the hour ending 0000 Monday through Saturday (excluding NERC holidays).

"On-Peak Market Heat Rate" shall mean (i) the day ahead on peak energy price for North Path 15, as listed in Platt's Megawatt Daily, Index for NP15, in the table entitled "Trades for Standard 16 Hour Daily Product" (or any successor index thereto as mutually agreed by the Parties, including, upon the implementation of the LMP System, a mutually agreeable index reflecting pricing for the NP-15 EZ Gen Hub), divided by

(ii) the Daily Gas Index as described above, determined on a day ahead basis.

"Off-Peak Market Heat Rate" shall mean (i) the day ahead off peak energy price for North Path 15, as listed in Platt's Megawatt Daily, Index for NP15, in the table entitled "Ranges for Indexes of Trades for Standard Off-Peak Product" (or any successor index thereto as mutually agreed by the Parties, including, upon the implementation of the LMP System, a mutually agreeable index reflecting pricing for the NP-15 EZ Gen Hub), divided by (ii) the Daily Gas Index as described above, determined on a day ahead basis.

"Western Generation Assets" shall mean generating assets or portions or output thereof located in the WSCC and owned or controlled by Seller or its Affiliates which are direct or indirect wholly-owned subsidiaries of Calpine Corporation which are not under contract as "qualifying facilities" (within the meaning of the Public Utility Regulatory Policies Act). An asset or portion or output thereof is controlled by Seller or an Affiliate for the purposes of this definition to the extent that Seller or Affiliate has the ability to direct the use of such asset or portion or output thereof pursuant to an agreement.

(b) Buyer shall be entitled to remedies under Article IV of the Master Power Purchase and Sale Agreement if it does not receive the applicable Contract Quantity of Product 1 hereunder. Subject to the preceding sentence, Buyer's sole remedy for Seller's failure to comply with the requirements of paragraph (a) of this Special Condition (3) in any hour shall be the payment of an amount equal to (i) 10% times (ii) the absolute value of the difference, if any, between the Market Price and the Contract Price times (iii) the positive difference, if any, between 1000 MWh and the amount of energy delivered (or which, but for the occurrence of a Force Majeure event or Forced Outage, could have been delivered) from Seller's Western Generation Assets (in MWh, not to exceed 1000 MWh) into the California markets during such hour. For the purpose of paragraph (b) of this Special Condition (3), "Market Price" means, for any hour, the average of the CAISO incremental supplemental prices for energy delivered into NP 15 (or to the NP-15 EZ Gen Hub upon the implementation of the LMP System) for each period during such hour.

(c) From time to time (but not more frequently than monthly) at Buyer's request, Seller shall provide Buyer information reasonably satisfactory to Buyer in sufficient detail to enable Buyer to verify the amount and sources of Western Generation Assets that were on line during each hour and delivered energy into the California markets for the purposes of meeting its obligations under paragraph (a) of this Special Condition (3). If energy necessary to satisfy Seller's obligations under paragraph (a) of this Special Condition (3) was delivered from its Western Generation Assets located outside of California, Seller will provide evidence that it had acquired and had utilized intertie capacity sufficient to deliver energy from any of its

Western Generation Assets outside of California to supply the amount of energy from such Western Generation Assets necessary (together with energy supplied from its Western Generation Assets in California) to meet its obligations hereunder. Upon request of Buyer, Seller will provide Buyer with sufficient information to enable Buyer to determine whether Seller's scheduling coordinators are effecting delivery of scheduled Contract Quantity market energy purchases through the CAISO imbalance energy markets. Seller authorizes Buyer to obtain such information from CAISO as may be necessary to determine compliance with the provisions hereof or to determine whether Seller's scheduling coordinators are effecting delivery of scheduled Contract Quantity market energy purchases through the CAISO imbalance energy markets, and Seller hereby waives its right to object to CAISO providing such information to Buyer; provided, however, that Buyer shall only use such information for the purposes of monitoring Seller's compliance with the provisions hereof. Parties elect to make Section 10.11 of the Master Agreement applicable to such information. Seller will not submit any negative decremental bids with respect to the Contract Quantity to CAISO unless mutually agreed nor claim unavailability of Seller-owned generating capacity based on Forced Outage or Force Majeure when in fact none exists.

(d) Notwithstanding the foregoing, subject to Forced Outages or Force Majeure events that reduce the available Western Generation Assets below 1000 MW, upon the issuance of any day-ahead CAISO warning of a potential stage alert then during hours of any warning or stage alert occurring during the following day, Seller shall provide the Contract Quantity from its Western Generation Assets and not from market energy purchases. Subject to Forced Outages or Force Majeure events with respect to Western Generation Assets, during the hours of any CAISO warning or alert other than as set forth in the preceding sentence, Seller will bid its unutilized Western Generation Assets located in California, and its other unutilized Western Generation Assets subject to prior use of such assets (or local control area rules and regulations) in connection with a warning or stage alert in the state in which such assets are located, into the CAISO imbalance energy market at just and reasonable rates.

(4) (a) Seller will use commercially reasonable efforts to complete its Otay Mesa (estimated installed capacity of 600 MW), East Altamont (proposed installed capacity of 1100 MW) and the San Joaquin Valley Energy Center (proposed installed capacity of 1100 MW) projects and diligent efforts to complete its Metcalf project (estimated installed capacity of 600 MW) (collectively, the "Projects", each a "Project"). For any Project, at the request of Buyer, which Buyer may elect to make in its sole discretion, Seller will, subject to the terms and conditions set forth below, assign or otherwise transfer to Buyer, free and clear of any liens or encumbrances created by Seller or its Affiliates, all of its right, title and interest in such Project (including, without limitation, all permits, consents and approvals, engineering and design drawings, contracts and equipment entered into or acquired for

the Project, and all other Project assets), to the extent that such rights, titles, interests or assets are assignable or transferable (such right being referred to as the "Step-in Right"), if:

(i) With respect to any Project, Seller permanently elects not to proceed with construction, development or commercial operation of the Project; or

(ii)(A) With respect to the Otay Mesa Project, Seller fails to achieve any of the following major milestones for the Otay Mesa Project or (B) with respect to the Metcalf Project, Seller fails to achieve any of the major milestones for the Metcalf Project set forth on Schedule 1A by the major milestone dates set forth on Schedule 1A:

Otay Mesa

Commence Construction	[12/31/02]
Begin Pouring Major Foundation Concrete	[7/31/03]
Begin Installation of Major Equipment	[10/31/03]
Achieve Commercial Operation	[12/31/04]

(C) (1) As of October 29, 2003, Seller had not achieved the 7/31/03 or the 10/31/03 major milestones for the Otay Mesa Project, to wit, Seller had not begun pouring major foundation concrete (the "7/31/03 Major Milestone"), nor had Seller begun installation of major equipment (the "10/31/03 Major Milestone"). However, Otay Mesa Energy Center, LLC and the San Diego Gas and Electric Company ("SDG&E") have entered into that certain Power Purchase Agreement dated February 5, 2005 with regard to the Otay Mesa facility (such Power Purchase Agreement being hereinafter referred to as the "SDG&E Agreement"), and due to the Parties' desire to have adequate time to discuss and evaluate possible permanent modifications to the Otay Mesa construction schedule, the parties wish to extend the cure periods associated with the 7/31/03 Major Milestone and the 10/31/03 Major Milestone and Buyer is willing to temporarily suspend the exercise of its Step-in Right pursuant to Special Condition 4(d) below.

(2) Seller had previously asserted that certain delays in achieving the 7/31/03 Major Milestone were caused by Force Majeure (the "Existing Force Majeure Claim"). Seller hereby waives any right to either assert (a) the Existing Force Majeure Claim, or (b) any new event of Force Majeure, to extend any Major Milestone deadline with respect to Otay Mesa under this Agreement. Seller and Buyer hereby agree to extend Seller's 90-day cure periods with respect to the 7/31/03 Major Milestone, the 10/13/03 Major Milestone, and the 12/31/04 Major Milestone for the Otay Mesa

Project – Achieve Commercial Operation (the “12/31/04 Major Milestone”) (collectively, the “Otay Mesa Major Milestones”) to a date (the “Cure Period End Date”) 30 days after the date on which each of the conditions to the effectiveness of the SDG&E Agreement (which are attached hereto as Schedule 1), other than item (j), which concerns obtaining a release with respect to Buyer’s Step-in Right with regard to the Otay Mesa Project, have been met or waived in accordance with the terms and conditions of the SDG&E Agreement. The intention of these modifications is to have the cure periods for all of the Otay Mesa Major Milestones expire on the Cure Period End Date. Buyer’s right to exercise its Step-in Right under Special Condition 4 with regard to any or all of the Otay Mesa Major Milestones shall begin on the day following the Cure Period End Date (unless Calpine has achieved the Otay Mesa Major Milestone in question prior to such date), and shall run for 60 days from the day following the Cure Period End Date. All of the other remaining milestones with respect to the Otay Mesa Project, the cure periods and Step-in Right exercise periods associated therewith shall remain as set forth in the Master Agreement.

(3) Notwithstanding anything to the contrary in this subparagraph 4(a)(ii)(C), if the Cure Period End Date has not occurred on or prior to December 31, 2005, Seller’s cure periods shall end immediately upon written notice from the Buyer and the Buyer may thereafter exercise its Step-in Right under Special Condition 4 upon written notice at least 60 days prior to the date specified in such notice for the exercise of such Step-in Right; provided however, that upon occurrence of the Cure Period End Date at any time after December 31, 2005, Seller’s cure periods shall end immediately and the Buyer shall have 60 days following the Cure Period End Date to exercise its Step-in Rights.

(iii) With respect to each of Seller’s East Altamont Project and San Joaquin Valley Project, Seller fails to obtain the California Energy Commission (“CEC”) permit for such Project by [November 30, 2002], or Seller fails to commence construction of such Project within one year of the date by which the order issuing such CEC permit and all other permits necessary for the start of construction become final and non-appealable through the passage of time or by the exhaustion of any appeals.

(b) For purposes of this Special Condition (4):

(i) to “commence construction” means (A) actively to commence site excavation, (B) to make a significant commitment of resources designed to achieve construction and commercial operation of the Projects by the dates set forth in this Special Condition (4), including without limitation the execution of sufficient contracts for necessary materials and supply, and (C) to cause sustained activity to occur on a daily basis at the Project site, with full crews, that is designed to achieve construction and

commercial operation of the Projects by the dates set forth this Special Condition (4).

(ii) to "achieve commercial operation" of a Project means that such Project has been completed, has passed all material performance tests, Seller or the owner of the Project has all necessary permits to operate the Project at the output level for which it was designed, the Project is capable of operating on a sustained basis at substantially the output level for which it was designed, and all interconnections, the capacity rating of the interconnection facilities, the interconnection agreement, and transmission connection are sufficient for the delivery of the full output of the Project to the CAISO-controlled grid.

(c)(i) Seller shall have 90 days to cure any failure to meet any of the deadlines set forth above in subparagraphs (a)(ii)(A), (a)(ii)(C) and (a)(iii) with respect to the Otay Mesa, East Altamont and San Joaquin Projects; provided, further, that with respect to the deadlines to obtain permits set forth in subparagraph (a)(iii) above with respect to the East Altamont and San Joaquin Projects, such 90-day period shall be extended day by day for permit delays if Seller is diligently seeking to obtain the permits referred to in said subparagraph (a)(iii), as determined by the CEC. If any dispute arises concerning whether Seller is diligently seeking to obtain the permits referred to in said subparagraph (a)(iii), Seller shall file a letter with the Chair of the CEC's Energy Infrastructure and Siting Committee and the CEC Chief Counsel requesting a determination that it is diligently seeking to obtain permits in accordance with the provisions of the preceding sentence. Within 5 business days after each of the deadlines set forth above in subparagraphs (a)(ii)(A) and (iii), Seller shall notify Buyer in writing whether the deadline has been met, and if it has not been met, Seller shall further notify Buyer whether and how Seller plans to cure within 90 days,

(ii) In addition to any extensions pursuant to subsection (c)(iii) below, Seller shall have 150 days to cure any failure to meet any of the deadlines set forth above in subparagraph (a)(ii)(B) with respect to the Metcalf Project. After taking into effect any extension pursuant to subsection (c)(iii) below, until any such failure is cured, Seller shall pay to Buyer, as liquidated damages for loss of a bargain and not as a penalty (the parties agreeing that Buyer's actual damages would be difficult to predict, and that the amounts payable pursuant to this subparagraph (c)(ii) represents a reasonable approximation of such amount), the following amounts per day during each 150 day cure period for each failure to meet any of the deadlines set forth above in subparagraph (a)(ii)(B) with respect to the Metcalf Project: (i) first 30 days, \$5,000, (ii) next 30 days, \$7,500, and (iii) each day thereafter through the end of the 150 day period, \$10,000. For the avoidance of doubt, Seller's obligation for liquidated damages hereunder shall be capped at \$1,275,000 for each failure to meet any of the deadlines set forth in paragraph (a)(ii)(B) with respect to the Metcalf Project. Seller shall

pay any amounts payable by Seller to Buyer pursuant to this subparagraph (c)(ii) into an escrow account held by an independent trustee. If Seller achieves commercial operation of the Metcalf Project on or before the Commercial Operation major milestone in Schedule 1A, all amounts held in such escrow account shall be promptly paid to Seller. If Seller achieves commercial operation of the Metcalf Project after the Commercial Operation major milestone in Schedule 1A, all amounts held in such escrow account shall be promptly paid to Buyer. Within 5 business days after each of the deadlines set forth in Schedule 1A referred to above in subparagraph (a)(ii)(B), Seller shall notify Buyer in writing whether the deadline has been met, and if it has not been met, Seller shall further notify Buyer whether and how Seller plans to cure within 150 days.

(iii) The deadlines set forth in subparagraphs (a)(ii)(A), (a)(ii)(B), (a)(ii)(C) and (a)(iii) for each of the Projects, shall be extended by a period equal to the duration of any period of Force Majeure. In addition, the milestone date set forth for "Achieve Commercial Operation" in subparagraph (a)(ii)(A), (a)(ii)(B) or (a)(ii)(C) with respect to the Otay Mesa and Metcalf Projects (and not any other milestone date in subparagraph (a)(ii)), shall be extended day for day for each day Seller is unable to achieve physical interconnection to water supply or discharge, gas transportation or electric transmission facilities necessary for such Project if Seller is, diligently seeking to obtain such interconnections.

(d) If Seller shall fail to meet any of the deadlines set forth in subparagraphs (a)(ii) and (iii) with respect to any of the Projects within the applicable cure period, Buyer shall have 60 days following the expiration of the applicable cure periods to exercise its Step-in Rights by requesting assignment of Seller's right, title and interest in the applicable Project, which request shall be by written notice thereof to Seller. In addition, Buyer shall have 60 days following any election by Seller under subparagraph (a)(i) or any notice from Seller that it does not intend to cure within the applicable cure period to request assignment of Seller's right, title and interest in the applicable Project, which request shall be by written notice thereof to Seller.

(e) Seller represents, warrants and covenants with respect to all Projects that, except for rights and liens granted in connection with the financing of any Project (i) it has not conveyed and will not convey, prior to the commercial operation date of a given Project, any ownership interests in or any interests in the profits of such Projects to any person other than Calpine Corporation or a direct or indirect wholly-owned subsidiary thereof; and (ii) it has not conveyed and will not convey, prior to the commercial operation date of a given Project, any rights or options to acquire such ownership or profit-sharing interests to any person other than Calpine Corporation or a direct or indirect wholly-owned subsidiary thereof. Seller further represents, warrants and

covenants with respect to all Projects that it has or will have sufficient control of all property rights that are necessary to develop the Projects in a commercially reasonable manner and, except for rights and liens granted in connection with the financing of any Project, it has not agreed and will not agree to, or acquire any such Project subject to, any terms or provisions in any agreement with respect to such Projects that would (A) allow any person other than Calpine Corporation or a direct or indirect wholly-owned subsidiary thereof to take over such Projects that are senior and superior to Buyer's rights under this Special Condition (4), or (B) have the effect of materially impairing Buyer's rights under this Special Condition (4) through the imposition of burdens, liabilities, obligations or financial disincentives on any party succeeding to Seller's rights with respect to the Projects and are not incurred in the normal course of Seller's business.

(f) If Buyer exercises its right to compel assignment of Seller's right, title and interest in a Project, such assignment shall be on the following terms and conditions: (i) all assignments and transfers of any such right, title, interest, asset or other property shall be made by Seller on an "as is, where is" basis, without warranty of any kind, express or implied, other than Seller's warranty in subparagraph (e) of this Special Condition (4) and a warranty that Seller has not previously transferred its right, title or interest in such Project to another person or entity, (ii) all assignments and transfers shall be subject to the then existing rights of record or otherwise disclosed prior to the effective date of the assignment of any person, entity or governmental agency or authority with respect to the property assigned or transferred, (iii) if the consent of any third party or governmental agency or authority is required to effect such assignment or transfer, it shall be Seller's obligation to cooperate with Buyer and use commercially reasonable efforts to obtain all such necessary consents and, with respect to all prospective agreements related to the Project, use commercially reasonable efforts to provide for such consent in such agreements, and (iv) concurrently with such assignment and transfer, Buyer shall assume any installment purchase agreement with respect to any equipment for the Project, and any interconnection agreement with respect to the Project, entered into by Seller or any of its Affiliates; provided, however, that any payments due under the installment purchase agreement or interconnection agreement must be current as of the effective date of such assignment and provided further that the interconnection agreement furnishes sufficient capacity for delivery of the output of the Project.

(g) In consideration for such assignment, Buyer shall reimburse Seller the latter's actual, verifiable and, with respect to affiliated parties, reasonable, costs without interest or carrying charges, for the acquisition of real estate and real estate interests, including the cost of real estate options, and for all material, supplies and equipment (including installment payments for such equipment previously made by Seller pursuant to an installment sales agreement) purchased for the Project;

if Buyer exercises its right of assignment after the commencement of construction, Buyer will also reimburse Seller the latter's actual, verifiable and, with respect to affiliated parties, reasonable, costs of construction, through the date of such exercise, including labor costs, without interest or carrying charges. The assets being purchased by Buyer with respect to any Project do not include, and Buyer shall not be required to purchase, any emissions reduction credits for a Project; provided, however, that Buyer shall have the option to purchase such credits at fair market value, subject to the right of Seller to retain such credits for use in the same California air district to the extent Seller reasonably expects that it will need such credits in connection with the construction or operation of power plants in such district. In no event, however, shall Buyer be required to pay Seller any additional consideration for the cost of obtaining permits, preparing engineering drawings, or acquiring similar documents, or for any other Project development costs. If the Parties are unable to agree as to the assets to be conveyed or amount to be reimbursed as defined in this Special Condition (4), they shall agree to have PricewaterhouseCoopers, Ernst & Young, or KPMG (or any of their successors) examine the books of Seller and within 30 days determine the assets to be conveyed or amount to be reimbursed. The determination of such accountant shall be final, non-appealable and binding on the Parties, who shall promptly effectuate the assignment or conveyance of such assets in exchange for payment of the amount so determined. At Seller's request, Buyer shall execute any consents, subordination agreements or similar agreements reasonably requested by Seller's lenders in connection with the financing of such Project, so long as such consents, subordination agreements or other agreements do not materially and adversely affect Buyer's rights hereunder; provided, however, Buyer agrees that its rights hereunder shall be subordinate to those of Seller's lenders unless Buyer shall agree with Seller's lender(s) that the reimbursement upon exercise of its right to assignment hereunder shall at a minimum be not less than the full amount of any debt secured by or utilized to finance such Project. Except as permitted in subsection (e), Seller shall not sell, assign, convey, transfer or otherwise dispose of its right, title or interest in any of the Projects (including, without limitation, all permits, consents and approvals, engineering and design drawings, contracts and equipment entered into or acquired for the Project, and all other Project assets), other than with respect to financing of the Project, to any person or entity other than Buyer, without the express written consent of Buyer, which shall not be unreasonably withheld; provided, further, that such assignment, conveyance, disposition or transfer shall be made subject to Buyer's rights under this Special Condition (4), and the transferee shall acknowledge in writing that it is bound by the terms of this Special Condition (4).

(h) The failure of Seller to meet the requirements of subsection (a) with respect to any Project shall allow Buyer to exercise its rights under this Special Condition (4) only with respect to such Project and shall not

allow Buyer to exercise such rights with respect to any other Project or Projects unless Seller independently fails to meet the requirements of subsection (a) with respect to such other Project or Projects. Buyer's Step-in Rights under this Special Condition (4) shall be Buyer's sole remedy for Seller's failure to meet its obligations under subsection (a) of this Special Condition (4) with respect to any Project. With respect to any failure of Seller to pay any amounts payable by Seller to Buyer pursuant to subparagraph (c)(ii), Buyer shall have all rights and remedies under the Agreement except that Buyer may not set off amounts payable by Seller to Buyer pursuant to subparagraph (c)(ii) against amounts payable by Buyer to Seller hereunder. It is the intention and agreement of the Parties that Buyer retain its rights under this Special Condition (4) after any assignment or transfer of Buyer's rights to a Qualified Electric Corporation pursuant to Section 10.5 of the Master Agreement and that Buyer's rights under this Special Condition (4) not be assigned to any a Qualified Electric Corporation in connection with any such assignment or transfer. A Replacement Agreement shall not include the provisions of this Special Condition (4). The provisions of this Special Condition (4) shall survive termination of the Agreement until December 31, 2009 in the event Seller enters into a Replacement Agreement with a Qualified Electric Corporation in accordance with Section 10.5 of the Master Agreement and this Confirmation is accordingly terminated. Except as expressly provided herein, including without limitation clause (d) of this Special Condition (4), no delay or failure of Buyer to exercise any right under this Special Condition (4) shall exhaust or impair any such rights or prevent the exercise thereof during the term hereof. No waiver by Buyer of any failure of Seller to perform under subsection (a) shall affect any subsequent failure of Seller to perform under said subsection or impair the rights of Buyer with respect thereto. Buyer's rights and Seller's obligations under this Special Condition (4) with respect to any Project shall terminate when Seller has met all of its obligations with respect to such Project under Special Condition (4)(a) or when Seller has assigned its rights in such Project to Buyer.

(i) Seller shall cooperate with any reasonable due diligence request of Buyer to enable Buyer to consider whether to exercise its Step-in Right pursuant to this Special Condition (4). Such request(s) may be made by Buyer at any time, including prior to such time, if any, as Buyer's Step-in Rights may arise under the Special Condition (4). It is the intent of the parties that any exercise of Step-in Rights by Buyer on the Metcalf Project shall be on a cooperative basis in a manner such that the Metcalf Project will not encounter delays or stoppages from the levels of work on the Metcalf Project being undertaken by Seller prior to the exercise of such Step-in Rights. In this regard, in the event Buyer elects to exercise its Step-in Right on the Metcalf Project, Seller shall cooperate with Buyer in transitioning the work, contracts, permits and undertakings at the Metcalf Project to Buyer, and shall provide for a period of 90 days or for a longer period as agreed to by the parties, at Buyer's expense, services necessary to

continue and transition the work, contracts and undertakings at the Metcalf Project to Buyer so long as Buyer enters into a construction management agreement with Seller or its affiliates on reasonable terms consistent with the terms upon which Seller's affiliates commonly provide such services to third parties and standard industry practices. At Buyer's option, Seller will assign to Buyer, and Buyer will assume in writing, those contracts identified by Buyer at such time as Buyer elects to exercise its Step-in Rights.

(5) The meter for Product 1 shall be on the high side of the Delivery Point transformer. Any generation meter multiplier (GMM) adjustments shall be for Buyer's account (i.e. notwithstanding any required GMM adjustments, Seller shall be deemed to have delivered the full metered amount of energy from each Unit); provided, however, that, in the event that GMM adjustments cease to apply upon the implementation of LMP, this sentence shall be void and of no further effect. Metering shall conform to CAISO standards or the equivalent. Seller shall provide CAISO metering settlement data to Buyer on a monthly basis, and, at Buyer's option and expense, real-time access to meter data via appropriate telemetering equipment.

(6) (a) Notwithstanding anything to the contrary herein, (i) Seller shall arrange and be responsible for transmission service to the Delivery Point, if any, (ii) all deliveries of Contract Quantity energy, with the exception of deliveries to the Tracy Intertie Point, shall be made by Inter-SC Trade and Seller shall obtain scheduling coordinator services necessary to make such deliveries to the Delivery Point, and (iii) Seller shall be responsible for any costs or charges resulting from the application of the Physical Validation Rule to deliveries of Contract Quantity energy.

(b) Buyer and Seller agree that: (i) all Inter-SC Trades at Nodes shall be subject to the Physical Validation Rule; (ii) no Inter-SC Trades at the Trading Hubs shall be subject to the Physical Validation Rule; and (iii) none of the deliveries at the Tracy Intertie Point shall be subject to the Physical Validation Rule; provided, however, the Parties agree that all deliveries of Contract Quantity at the Tracy Intertie Point shall be physical and subject to validation through applicable Western Electricity Coordinating Council and North American Electric Reliability Council protocols.

(7) (a) An Event of Default shall exist under this Transaction if Seller schedules through CAISO or delivers less than 95% of the Contract Quantity energy scheduled by Buyer in any two consecutive calendar months (the "Default Months"). For the purposes of the preceding sentence, deliveries shall include deliveries of Contract Quantity energy through the CAISO imbalance energy market as the result of any scheduling coordinator other than Seller failing to deliver under a schedule but shall not include the use by Seller of the CAISO uninstructed imbalance energy markets to effect a scheduled delivery of the Contract

Quantity energy from any of its units except with respect to (i) any under delivery resulting from a unit Forced Outage or Force Majeure events and where Seller has submitted a schedule change as soon thereafter as reasonably practical and (ii) any under deliveries resulting from instructed deviations from schedules directed by Buyer or CAISO. Notwithstanding the foregoing, any Inter-SC Trades scheduling energy for delivery at a Node that are invalidated under the Physical Validation Rule in post market confirmation and subsequently settled at the NP 15 EZ Gen Hub price shall be treated as deliveries of Contract Quantity energy under this Special Condition 7(a).

(b) Seller shall (consistent with the requirements or definitions of CAISO or its successor) provide Buyer with revenue quality data daily with respect to all deliveries of Contract Quantity energy and allow Buyer upon reasonable notice to test all meters providing such data. Buyer shall have ten (10) days after the end of each month to determine whether Seller has scheduled or delivered 95% of the Contract Quantity energy scheduled by Buyer during such month in accordance with subsection (a). If Buyer does not respond within such ten (10) day period, Seller shall be conclusively deemed to have scheduled or delivered 95% of the Contract Quantity energy scheduled by Buyer during such month; provided, however, that such ten (10) day period shall be extended day for day for each day after the end of such month that Seller has not provided to Buyer revenue quality data daily with respect to all deliveries of Contract Quantity energy during such month or allowed Buyer to test meters providing such data.

Failures to schedule or deliver Contract Quantity energy for the purpose of Special Condition 7.(a) shall not include any failures resulting from meter failure or malfunction that is not the result of Seller's negligence; provided that Seller shall act promptly to repair or replace any such meter.

(c) Upon occurrence of an Event of Default pursuant to this Special Condition (7), Buyer may elect to terminate this Transaction pursuant to Section 5.2 of the Master Agreement, obtain damages pursuant to Article IV of the Master Agreement or exercise any other remedies available to it under the Master Agreement. Except as otherwise set forth in this Special Condition (7), Buyer's sole remedy for Seller's failure to schedule and deliver Product shall be as set forth in Article IV of the Master Agreement. Buyer must exercise any right it may have to terminate this Transaction upon an Event of Default pursuant to this Special Condition (7) not later than 30 days after the close of the first calendar quarter following the Default Months.

(8) [Intentionally omitted]

(9) In the event the Physical Validation Rule is not in effect on, or ceases to be in effect after, the Amendment Effective Date but LMP is or remains in effect, the Parties agree immediately to negotiate in good faith to reach a mutually acceptable modification to the Delivery Point provisions of this

Second Amended and Restated Confirmation that preserves to the greatest extent possible the Parties' respective benefits and burdens under the Settlement Agreement and this Second Amended and Restated Confirmation, as applicable. In the event such negotiations do not yield a mutually acceptable resolution of the Delivery Point issues within sixty (60) days, the Parties agree to resolve the dispute concerning modification of the Delivery Point provisions of this Second Amended and Restated Confirmation due to the post-LMP elimination of the Physical Validation Rule ("Physical Validation Rule Dispute") in accordance with the arbitration procedures set forth in Special Condition 10 below.

(10) (a) In the event the Parties and/or their respective representatives do not resolve any Physical Validation Rule Dispute in accordance with the procedure set forth in Special Condition 9 above, such dispute shall be submitted to binding arbitration in accordance with this Special Condition 10. The arbitration shall be conducted in accordance with the Federal Arbitration Act and the AAA rules for commercial arbitration in effect when the arbitration is commenced. Submission to arbitration shall be made upon the request of either Party by sending a written notice to the other Party with a brief statement of the dispute. The letter must also name the arbitrator chosen by the claimant. Within ten (10) calendar days of the date of the notice of arbitration, the respondent shall notify the claimant in writing of its choice of an arbitrator. The two (2) arbitrators so appointed shall then select the third arbitrator within twenty (20) calendar days, who shall be the chairperson of the tribunal. The chairperson shall be a person who has at least six (6) years of experience in energy-related transactions, and none of the arbitrators shall have been previously employed by either Party or have any direct pecuniary interest in either Party or the subject matter of the arbitration, unless such relationship or interest is expressly acknowledged and this prerequisite is waived in writing by both Parties. If the arbitrators chosen by the Parties cannot agree on the selection of a third arbitrator, the selection of the third arbitrator shall be referred by either Party to the AAA. The chairperson shall be bound to schedule a hearing within six (6) months after his/her appointment and the panel must render its decision within thirty (30) calendar days after the hearing concludes. The conduct of the arbitration, the hearing, and any pre-hearing matters shall be governed by the AAA rules for commercial arbitration unless otherwise agreed to by the Parties or altered by the Panel. The arbitrator(s) shall have no authority to award consequential, treble, exemplary, or punitive damages of any type or kind regardless of whether such damages may be available under any law or right. Each Party shall bear the compensation, costs and expenses of its own arbitrator and the Parties shall split equally the compensation, costs and expenses of the third arbitrator. Any arbitration proceedings, decision or award rendered hereunder and the validity, effect and interpretation of this arbitration provision shall be governed by the Federal Arbitration Act. The arbitration shall take place in Sacramento, California. The award shall be final and binding on the Parties and judgment upon any award may be entered in any court of competent jurisdiction. The Parties agree

that all information exchanged in connection with any proceeding as described herein shall be deemed confidential. Until Buyer and Seller agree otherwise or a final arbitration ruling is issued in connection with any Physical Validation Rule Dispute, deliveries of Contract Quantity at Nodes shall be tagged to the generation resource at the specific Node to ensure that such deliveries remain physically validated. Such tagging shall be performed in accordance with applicable NERC protocols; provided, however, that Seller shall not be in violation of this requirement if the control area operator chooses not to perform any validation of such tags.

(b) If a Physical Validation Rule Dispute is submitted to arbitration under this Special Condition 10, the Parties agree that in the event that the Seller has pledged or assigned the contract to a financing party in connection with a financing transaction, and such financing party or a third party (the "Financing PPA Counterparty") and the Seller have entered into a corresponding power purchase agreement as part of such financing transaction (the "Financing PPA"), that the Financing PPA Counterparty shall be a necessary party to such arbitration and that any modifications to this Second Amended and Restated Confirmation as a result of the arbitration must be mirrored in the Financing PPA. Seller and any such Financing PPA Counterparty shall jointly select one arbitrator in accordance with Special Condition 10(a) above.

(c) For the avoidance of doubt, the arbitration procedures set forth in this Special Condition 10 are applicable only to Physical Validation Rule Disputes between the Parties. All other disputes arising under this Second Amended and Restated Confirmation or the Master Agreement shall be resolved in accordance with the dispute resolution procedures set forth in Section 10.12 of the Master Agreement, as provided in the Cover Sheet.

(11) This Second and Amended and Restated Confirmation shall be of no further force or effect in the event that CAISO implements TAPAS or otherwise abandons the implementation of LMP prior to January 1, 2010.

Scheduling:

Product 1: N/A

Option Buyer: N/A

Option Seller: N/A

Type of Option: N/A

Strike Price: N/A

Premium: N/A

Exercise Period: N/A

This Second Amended and Restated Confirmation Letter is being provided pursuant to and in accordance with the Amended and Restated Master Power Purchase and Sale Agreement dated April 22, 2002 (the "Master Agreement") between Party A and Party B, and constitutes part of and is subject to the terms and provisions of such Master Agreement. This Second Amended and Restated Confirmation Letter constitutes an amendment and restatement of the Amended and Restated Confirmation Letter dated April 22, 2002 and effective May 1, 2002, as amended on October 23, 2003, October 29, 2003 and March 30, 2005. Terms used but not defined herein shall have the meanings ascribed to them in the Master Agreement; in the event of any inconsistency between any of the terms herein and the Master Agreement, the terms of this Second Amended and Restated Confirmation Letter shall control.

Calpine Energy Services, L.P.

State of California Department of Water Resources
separate and apart from its powers and
responsibilities with respect to the State Water
Resources Development System

Original signed by

By: _____
Name: ROBERT KELLY
Title: EXECUTIVE VP
Phone No: (408) 792-1124
Fax: (408) 995-0505

Original signed by

By: _____
Name: Peter S. Garriss
Title: Deputy Director
Phone No: (916) 574-2733
Fax: (916) 574-2512

SCHEDULE 1B

METCALF PROJECT CONSTRUCTION MILESTONES			
* Capline to provide monthly progress reports per Special Condition 2 relative to all Construction Milestones.			
Item No.	Task Name	Start Milestone Date	Finish Milestone Date
1	Drive Production Pile	12/5/2002	Complete
2	Install U/G Circ Water Pipe	4/1/2003	Complete
3	Build FDN-STG	9/30/2003	1/30/2004
4	Assemble and Set Condenser	11/30/2003	3/15/2004
5	Install U/G Electrical	9/30/2003	4/30/2004
6	Install U/G Mechanical	9/30/2003	4/30/2004
7	Build FDN-HRSG #1 and #2	1/1/2004	4/30/2004
8	Build FDN-CTGs	3/1/2004	5/30/2004
9	Set Transformers		6/30/2004
10	Build Recycled and Potable Water Interconnects	3/30/2003	10/15/2004
11	Erect Pipe Rack Steel	3/15/2004	10/30/2004
12	Build FDN-Cooling Tower	8/1/2004	10/30/2004
13	Construct Nat. Gas Pipeline to Meter Sta.	6/1/2004	11/30/2004
14	Install STG	12/1/2003	12/30/2004
15	Build and Check out Switchyard	6/1/2004	1/30/2005
16	Erect Admin Bldg	6/1/2004	1/30/2005
17	Erect First HRSG	3/1/2004	2/1/2005
18	Erect Second HRSG	4/1/2004	3/1/2005
19	Hydro Test First HRSG	1/15/2005	3/1/2005
20	Erect Cooling Tower	10/30/2004	3/1/2005
21	Energize Switchyard	2/1/2005	3/1/2005
22	Hydro Test Second HRSG	1/30/2005	3/30/2005
23	Install CTGs	6/1/2004	3/30/2005
24	Install Process Electrical	6/1/2004	4/30/2005
25	Check out & T/O both CTGs	3/30/2005	4/30/2005
26	Install BOP Piping	4/1/2004	6/1/2005
27	Hydro BOP Sim & Wtr Sys	3/1/2005	5/1/2005
28	Complete CEMS Installation		5/1/2005
29	Plant Mechanical Completion including Deionized Water System		5/1/2005
30	First Fire First CTG		5/1/2005
31	First Fire Second CTG		5/15/2005
32	Steam Blow and Restore	5/15/2005	5/30/2005
33	Commission DCS	2/1/2005	6/1/2005
34	Commission Plant	5/1/2005	7/30/2005
35	Performance Test Plant	7/10/2005	7/30/2005
36	Commercial Operation		7/31/2005
	Delivery of STG		Complete
	Delivery of CTGs		Complete

SCHEDULE 1A

Milestone*	Date
Complete steam turbine generator foundation.	January 30, 2004
Begin erection of first HRSG.	March 1, 2004
Begin installation of combustion turbine generating units.	June 1, 2004
Complete cooling tower foundation.	October 30, 2004
Complete construction of natural gas pipeline to meter station.	November 30, 2004
Complete hydro test of first HRSG.	March 1, 2005.
First fire of the first combustion turbine-generator.	May 1, 2005.
Complete steam blows and plant restoration.	May 30, 2005.
Commercial Operation.	July 31, 2005.

* Upon written request of the Buyer, Seller shall provide Buyer reasonable evidence that validates successful achievement of any of the milestones set forth in this Schedule 1A.

SCHEDULE 1

Schedule 1 – Conditions Precedent to Effectiveness of the SDG&E Agreement

- a. CPUC Approval. On or before December 31, 2004, Buyer [i.e., SDG&E] shall have received an order from the CPUC in form and substance acceptable to Buyer in its sole discretion exercised in good faith (i) approving the terms and conditions of this Agreement without material alteration of the commercial aspects described herein, (ii) approving the cost recovery mechanisms of Buyer, (iii) reallocating the Master Power Purchase and Sale Agreement between Sunrise Power Company LLC and California Department of Water Resources dated June 25, 2001, as amended, and costs associated therewith from Buyer to Pacific Gas & Electric Company, effective reasonably concurrently with the Delivery Start Date or earlier, and (iv) approving an increase in Buyer's equity level and recovery therefor in its revenue requirements. The Parties agree to cooperate and use all reasonable efforts to obtain the CPUC order as soon as is practicable.
- b. Facility Site. Within thirty (30) days after the satisfaction of the Effective Date Conditions in Sections 3.1(a), (k) and (l), Seller [i.e., Olay Mesa Energy Center, LLC] shall have delivered to Buyer a copy of the Facility Site Lease, evidencing that Seller owns a valid leasehold interest in the Facility Site for the duration of the Contract Term.
- c. Completion Security. Within thirty (30) days after the satisfaction of the Effective Date Conditions in Sections 3.1(a), (k) and (l) Seller shall have delivered Credit Support to Buyer in the amount required by Section 14.1 to secure all of the obligations of Seller under this Agreement during the period up to the Commercial Operation Date, including the obligation to achieve the Commercial Operation Date by the Guaranteed Commercial Operation Date and the payment of any Daily Delay Liquidated Damages contemplated in this Agreement payable to Buyer by Seller as a result of a delay in the Commercial Operation Date beyond the Guaranteed Commercial Operation Date.
- d. Seller's Governmental Approvals. On or before December 31, 2004, Seller shall have delivered to Buyer all Governmental Approvals required to construct the Facility and to enter into this Agreement as set forth on Appendix 1, Part A and all such Governmental Approvals shall be final and no longer subject to any appeal or waiting periods.
- e. Committed Funds. Within sixty (60) days after the satisfaction of the Effective Date Conditions in Sections 3.1(a), (k) and (l), Seller shall have delivered to Buyer evidence that Seller has sufficient committed funds dedicated and available under one or more credit facilities or otherwise dedicated to finance the construction of the Facility consistent with Section 16.1(d).

f. Negative Pledge Agreement. Within thirty (30) days after the satisfaction of the Effective Date Conditions in Sections 3.1(a), (k) and (l), Seller shall have executed and delivered to Buyer the Negative Pledge Agreement for recording in the real property records of San Diego County as an encumbrance on the Facility Site.

g. Project Schedule. Within thirty (30) days after the satisfaction of the Effective Date Conditions in Sections 3.1(a), (k) and (l), Seller shall have delivered to Buyer a Project Schedule, in form and substance satisfactory to Buyer, such that Buyer can preliminarily evaluate the ability of Seller to achieve the Commercial Operation Date by the Guaranteed Commercial Operation Date.

h. Resolutions. Within ten (10) Business Days after the execution of this Agreement, each of Buyer and Seller shall have delivered to the other Party certified copies of applicable authorizing resolutions of its board of directors, members or other applicable management body, evidencing its authority to enter into this Agreement and perform its obligations hereunder.

i. Electrical Interconnection Agreements. On or before December 31, 2004, the Parties shall have entered into an amendment to the Electrical Interconnection Agreements addressing the allocation of costs for any transmission network upgrades and Electrical Interconnection Facilities.

j. DWR Release. On or before the execution and delivery of the Negative Pledge Agreement pursuant to Section 3.1(f), Seller shall have caused the California Department of Water Resources to execute and deliver to Buyer an agreement or instrument irrevocably releasing and terminating any and all of the Liens existing in favor of the California Department of Water Resources with respect to the Facility.

k. Final CPUC and Transmission Upgrade Approvals. On or before July 1, 2005, (1) the CPUC order described in Section 3.1(a) shall be final and no longer subject to any appeal or waiting periods; and (2) Buyer shall have received a final, non-appealable order from the CPUC in form and substance acceptable to Buyer in its sole discretion exercised in good faith authorizing Buyer to construct the Transmission Upgrades. The Parties agree to cooperate and use all reasonable efforts to obtain the above CPUC orders as soon as is practicable.

l. Buyer's Governmental Approvals. On or before November 30, 2005, Buyer shall have received all Governmental Approvals required to construct the Transmission Upgrades and to enter into this Agreement as set forth on Appendix 2 and all such Governmental Approvals shall be final and no longer subject to any appeal or waiting periods.